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SUBJECT: Stung by FATF Criticism, Austria Signals High-Level
Commitment to Improving AML/CTF Regime

REF: (A) VIENNA 1212; (B) VIENNA 1076;
(C) VIENNA 0847

¶1. In a September 29 press conference, Austrian Vice-Chancellor/Finance Minister Josef Proell announced a legislative roadmap to improve Austria's AML/CFT (Anti-Money Laundering / Counter-Terrorist Financing) standards in reaction to criticism of Austria at the FATF Plenary in Lyon June 24-26 (refs B and C). With this high-level announcement, the GoA is showing -- prior to final publication of the FATF final Mutual Evaluation Report (MER) on Austria -- that it will respond to shortcomings identified in the MER.

¶2. In announcing the roadmap ("transparency package"), Proell cited the Austrian Parliament's recent lifting of bank secrecy (for tax information exchange cases involving non-citizens) -- in response to pressure from the OECD and G-20 -- and described the AML/CFT issue as a similar challenge to Austrian authorities. In a de facto break with Austria's long-time status as a banking secrecy jurisdiction, Proell argued that improving transparency is key to Austria's competitiveness as a financial center and pledged to make every effort to avoid Austria showing up again on international blacklists.

¶3. The roadmap outlines ten legislative/regulatory changes, some of which require action by ministries other than Finance (Interior, Justice, and Economics). Proell plans to present the transparency package to the cabinet in October for approval; afterwards, ministries will start drafting relevant legislation.

¶4. COMMENT: Unlike bank secrecy (which has "constitutional" status in Austria), the legal amendments outlined below require only simple majority votes in Parliament -- which should be straightforward for the current coalition. However, it will take at least a year (perhaps significantly longer) to implement the full roadmap given the bureaucratic and legislative challenge of amending numerous laws. END COMMENT.

¶5. (U) The ten points on Proell's roadmap:

-- Criminalization of "own money" laundering (currently, money laundering is a criminal offence in Austria only if the money stems from third party crimes, not if the money was obtained by one's own criminal activity).

-- Separation of the reporting of suspicious transaction reports (STRs) from criminal procedures. Currently, an STR immediately leads to the introduction of criminal procedures, which could give criminal or terrorist groups an early warning. The new approach will be to thoroughly analyze and investigate the STR before formally introducing criminal proceedings.

-- Broadening of STRs. Currently, banks and financial institutions must render an STR in case of "suspicion or probable reason to assume" that a transaction serves the purpose of money laundering or terrorist financing. The planned new STR requirement would expand

reporting to include suspicion that financial assets represent the profit from criminal activity (even if a transaction does not necessarily represent money laundering) and where there is a connection to a terrorist organization or terrorist financier (i.e., even if there is no direct financing of terrorist activity).

-- More power, personnel for FIU: Austria's Financial Intelligence Unit would get a greater role in receiving, analyzing, and sharing STRs, e.g., greater scope for information exchange in case of STRs regarding terrorist financing. Although the FIU does not belong to Proell's Ministry, Proell opined that the FIU would likely need more personnel given the strong increase in STRs in recent years.

-- More responsibility for the FMA: Austria's Financial Market Authority (regulator for banks and other financial enterprises) will be able to issue risk-oriented standards for supervision and auditing to fight AML/CFT.

-- More power, responsibility for bank compliance officers: compliance officers in financial institutions will have clearer responsibilities; regulations will define data they must be able to access and where in the bank hierarchy they must be located.

-- Transparency for stock corporations: In the future, bearer shares will be allocated only for listed corporations. An electronic shareholder register will be introduced.

-- Transparency for private trusts: All current beneficiaries will have to be registered publicly. In most cases, beneficiaries already show up in public documents, but present loopholes will be closed (e.g., when the foundation document only includes an interim agency which later names its beneficiaries).

VIENNA 00001266 002 OF 002

-- Tightening asset seizure: Currently, asset seizure in Austria in connection with money laundering and terrorist financing is possible only in cross-border cases. In the future, seizure will also be possible in domestic cases.

-- More controls on gambling: Casinos will have to verify the identity of customers transacting more than EUR 3,000 (currently only done for citizens from the EU and EEA, not from third countries). The GoA will also clarify AML/CTF applicability to Internet casinos.

YAP